

2017 -- H 5475

LC001528

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO TOWNS AND CITIES -- SUBDIVISION OF LAND

Introduced By: Representatives Shekarchi, Shanley, Bennett, Hull, and Lima

Date Introduced: February 15, 2017

Referred To: House Municipal Government

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 45-23-40, 45-23-41, 45-23-63 and 45-23-67 of the General Laws
2 in Chapter 45-23 entitled "Subdivision of Land" are hereby amended to read as follows:

3 **45-23-40. General provisions -- Major land development and major subdivision --**
4 **Master plan.**

5 (a) Submission requirements.

6 (1) The applicant shall first submit to the administrative officer the items required by the
7 local regulations for master plans.

8 (2) Requirements for the master plan and supporting material for this phase of review
9 include, but are not limited to: information on the natural and built features of the surrounding
10 neighborhood, existing natural and man-made conditions of the development site, including
11 topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, as well
12 as the proposed design concept, proposed public improvements and dedications, tentative
13 construction phasing; and potential neighborhood impacts.

14 (3) Initial comments will be solicited from:

15 (i) Local agencies including, but not limited to, the planning department, the department
16 of public works, fire and police departments, the conservation and recreation commissions;

17 (ii) Adjacent communities;

18 (iii) State agencies, as appropriate, including the departments of environmental
19 management and transportation, and the coastal resources management council; and

1 (iv) Federal agencies, as appropriate. The administrative officer shall coordinate review
2 and comments by local officials, adjacent communities, and state and federal agencies.

3 (4) Requests for relief from the literal requirements of the zoning ordinance and/or for the
4 issuance of special-use permits related to major subdivisions and/or major land-development
5 projects that are submitted under a zoning ordinance's unified development review provisions
6 shall be included as part of the master plan application, pursuant to § 45-23-50.1(b).

7 (b) Certification. The application must be certified, in writing, complete or incomplete by
8 the administrative officer within ~~sixty (60)~~ twenty-five (25) days, according to the provisions of §
9 45-23-36(b). The running of the time period set forth herein will be deemed stopped upon the
10 issuance of a certificate of incompleteness of the application by the administrative officer and will
11 recommence upon the resubmission of a corrected application by the applicant. However, in no
12 event will the administrative officer be required to certify a corrected submission as complete or
13 incomplete less than ~~fourteen (14)~~ ten (10) days after its resubmission.

14 (c) Technical review committee. The technical review committee, if established, shall
15 review the application and shall comment and make recommendations to the planning board.

16 (d) Informational meeting.

17 (1) A public informational meeting will be held prior to the planning board decision on
18 the master plan, unless the master plan and preliminary plan approvals are being combined, in
19 which case the public informational meeting is optional, based upon planning board
20 determination, or unified development review has been requested, in which case a public hearing
21 shall be held pursuant to § 45-23-50.1(b).

22 (2) Public notice for the informational meeting is required and must be given at least
23 seven (7) days prior to the date of the meeting in a newspaper of general circulation within the
24 municipality. Postcard notice must be mailed to the applicant and to all property owners within
25 the notice area, as specified by local regulations.

26 (3) At the public informational meeting, the applicant will present the proposed
27 development project. The planning board must allow oral and written comments from the general
28 public. All public comments are to be made part of the public record of the project application.

29 (e) Decision. The planning board shall, within ~~one hundred and twenty (120)~~ ninety (90)
30 days of certification of completeness, or within a further amount of time that may be consented to
31 by the applicant, approve of the master plan as submitted, approve with changes and/or
32 conditions, or deny the application, according to the requirements of §§ 45-23-60 and 45-23-63.

33 (f) Failure to act. Failure of the planning board to act within the prescribed period
34 constitutes approval of the master plan, and a certificate of the administrative officer as to the

1 failure of the planning board to act within the required time and the resulting approval will be
2 issued on request of the applicant.

3 (g) Vesting.

4 (1) The approved master plan is vested for a period of two (2) years, with the right to
5 extend for two (2), one-year extensions upon written request by the applicant, who must appear
6 before the planning board for the annual review. Thereafter, vesting may be extended for a longer
7 period, for good cause shown, if requested by the applicant, in writing, and approved by the
8 planning board. Master plan vesting includes the zoning requirements, conceptual layout, and all
9 conditions shown on the approved master plan drawings and supporting materials.

10 (2) The initial four-year (4) vesting for the approved master plan constitutes the vested
11 rights for the development as required in § 45-24-44.

12 **45-23-41. General provisions -- Major land development and major subdivision --**
13 **Preliminary plan.**

14 (a) Submission requirements.

15 (1) The applicant shall first submit to the administrative officer the items required by the
16 local regulations for preliminary plans.

17 (2) Requirements for the preliminary plan and supporting materials for this phase of the
18 review include, but are not limited to: engineering plans depicting the existing site conditions,
19 engineering plans depicting the proposed development project, a perimeter survey, all permits
20 required by state or federal agencies prior to commencement of construction, including permits
21 related to freshwater wetlands, the coastal zone, floodplains, preliminary suitability for individual
22 septic disposal systems, public water systems, and connections to state roads.

23 (3) At the preliminary plan review phase, the administrative officer shall solicit final,
24 written comments and/or approvals of the department of public works, the city or town engineer,
25 the city or town solicitor, other local government departments, commissions, or authorities as
26 appropriate.

27 (4) Prior to approval of the preliminary plan, copies of all legal documents describing the
28 property, proposed easements, and rights-of-way.

29 (5) If the applicant is requesting alteration of any variances and/or special-use permits
30 granted by the planning board or commission at the master plan stage of review pursuant to
31 adopted unified development review provisions, and/or any new variances and/or special-use
32 permits, such requests and all supporting documentation shall be included as part of the
33 preliminary plan application materials, pursuant to § 45-23-50.1(b).

34 (b) Certification. The application will be certified as complete or incomplete by the

1 administrative officer within ~~sixty (60)~~ twenty-five (25) days, according to the provisions of § 45-
2 23-36(b). The running of the time period set forth herein will be deemed stopped upon the
3 issuance of a certificate of incompleteness of the application by the administrative officer and will
4 recommence upon the resubmission of a corrected application by the applicant. However, in no
5 event shall the administrative officer be required to certify a corrected submission as complete or
6 incomplete less than ~~fourteen (14)~~ ten (10) days after its resubmission.

7 (c) Technical review committee. The technical review committee, if established, shall
8 review the application and shall comment and make recommendations to the planning board.

9 (d) Public hearing. Prior to a planning board decision on the preliminary plan, a public
10 hearing, which adheres to the requirements for notice described in § 45-23-42, must be held.

11 (e) Public improvement guarantees. Proposed arrangements for completion of the
12 required public improvements, including construction schedule and/or financial guarantees, shall
13 be reviewed and approved by the planning board at preliminary plan approval.

14 (f) Decision. A complete application for a major subdivision or development plan shall be
15 approved, approved with conditions, or denied, in accordance with the requirements of §§ 45-23-
16 60 and 45-23-63, within ~~one hundred twenty (120)~~ ninety (90) days of the date when it is certified
17 complete, or within a further amount of time that may be consented to by the developer.

18 (g) Failure to act. Failure of the planning board to act within the prescribed period
19 constitutes approval of the preliminary plan and a certificate of the administrative officer as to the
20 failure of the planning board to act within the required time and the resulting approval shall be
21 issued on request of the applicant.

22 (h) Vesting. The approved preliminary plan is vested for a period of two (2) years with
23 the right to extend for two (2), one-year extensions upon written request by the applicant, who
24 must appear before the planning board for each annual review and provide proof of valid state or
25 federal permits as applicable. Thereafter, vesting may be extended for a longer period, for good
26 cause shown, if requested, in writing by the applicant, and approved by the planning board. The
27 vesting for the preliminary plan approval includes all general and specific conditions shown on
28 the approved preliminary plan drawings and supporting material.

29 **45-23-63. Procedure -- Meetings -- Votes -- Decisions and records.**

30 (a) All records of the planning board proceedings and decisions shall be written and kept
31 permanently available for public review. Completed applications for proposed land development
32 and subdivisions projects under review by the planning board shall be available for public review.

33 (b) Participation in a planning board meeting or other proceedings by any party is not a
34 cause for civil action or liability except for acts not in good faith, intentional misconduct,

1 knowing violation of law, transactions where there is an improper personal benefit, or malicious,
2 wanton, or willful misconduct.

3 (c) All final written comments to the planning board from the administrative officer,
4 municipal departments, the technical review committee, state and federal agencies, and local
5 commissions are part of the permanent record of the development application.

6 (d) Votes. All votes of the planning board shall be made part of the permanent record and
7 show the members present and their votes. A decision by the planning board to approve any land
8 development or subdivision application requires a vote for approval by a majority of the current
9 planning board membership. A decision by the planning board to approve a variance or special-
10 use permit pursuant to any adopted unified development review regulations requires a vote for
11 approval by a majority of the planning board members that were present at the public hearing at
12 which the request was heard.

13 (e) All written decisions of the planning board shall be recorded in the land evidence
14 records within ~~thirty five (35)~~ twenty (20) days after the planning board vote. A copy of the
15 recorded decision shall be mailed within one business day of recording, by any method that
16 provides confirmation of receipt, to the applicant and to any objector who has filed a written
17 request for notice with the administrative officer. If the decision has not been recorded and posted
18 within twenty (20) days after the planning board vote, fifty percent (50%) of the subject
19 application fee shall be refunded to the applicant.

20 **45-23-67. Appeals -- Process of appeal.**

21 (a) An appeal to the board of appeal from a decision or action of the planning board or
22 administrative officer may be taken by an aggrieved party to the extent provided in § 45-23-66.
23 The appeal must be taken within twenty (20) days after the decision has been ~~filed~~ recorded in the
24 city's or town's land evidence records and posted in the office of the city or town clerk.

25 (b) The appeal shall be in writing and state clearly and unambiguously the issue or
26 decision which is being appealed, the reason for the appeal, and the relief sought. The appeal
27 shall either be sent by certified mail, with a return receipt requested, or be hand-delivered to the
28 board of appeal. The city or town clerk shall accept delivery of an appeal on behalf of the board
29 of appeal, if the local regulations governing land development and subdivision review so provide.

30 (c) Upon receipt of an appeal, the board of appeal shall require the planning board or
31 administrative officer to immediately transmit to the board of appeal, all papers, documents and
32 plans, or a certified copy thereof, constituting the record of the action which is being appealed.

33 SECTION 2. Section 45-24-61 of the General Laws in Chapter 45-24 entitled "Zoning
34 Ordinances" is hereby amended to read as follows:

1 **45-24-61. Administration -- Decisions and records of zoning board of review.**

2 (a) Following a public hearing, the zoning board of review shall render and record a
3 decision in the land evidence records within ~~fifteen (15)~~ twenty (20) days of the hearing. Within
4 this same twenty (20) day period, the written decision must be posted in the office of the city or
5 town clerk in accordance within the provisions of §45-24-69, and is a public record. The zoning
6 board of review shall include in its decision all findings of fact and conditions, showing the vote
7 of each participating member, and the absence of a member or his or her failure to vote.
8 ~~Decisions shall be recorded and filed in the office of the city or town clerk within thirty (30)~~
9 ~~working days from the date when the decision was rendered, and is a public record.~~ The zoning
10 board of review shall keep written minutes of its proceedings, showing the vote of each member
11 upon each question, or, if absent or failing to vote, indicating that fact, and shall keep records of
12 its examinations, findings of fact, and other official actions, all of which shall be recorded and
13 filed in the office of the zoning board of review in an expeditious manner upon completion of the
14 proceeding. For any proceeding in which the right of appeal lies to the superior or supreme court,
15 the zoning board of review shall have the minutes taken either by a competent stenographer or
16 recorded by a sound-recording device.

17 (b) ~~Any decision by the zoning board of review, including any special conditions attached~~
18 ~~to the decision, shall be mailed to the applicant and to the zoning enforcement officer of the city~~
19 ~~or town. Any decision evidencing the granting of a variance, modification, or special use shall~~
20 ~~also be recorded in the land evidence records of the city or town.~~ A copy of the recorded decision
21 shall be mailed within one business day of recording, by any method that provides confirmation
22 of receipt, to the applicant, and to any objector who has filed a written request for notice with the
23 zoning enforcement officer, as well as a copy to the zoning enforcement officer. If the written
24 decision by zoning board of review has not been recorded and posted within twenty (20) days of
25 the public hearing, fifty percent (50%) of the subject application fee shall be refunded to the
26 applicant.

27 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TOWNS AND CITIES -- SUBDIVISION OF LAND

1 This act would shorten the time periods related to certifications, decision-making and
2 recordings of decisions for major land development and major subdivision master and
3 preliminary plans, and would further provide a fifty percent (50%) reimbursement of an
4 applicant's fee in the event a planning board or zoning board of review fails to timely and
5 properly record and post its decisions.

6 This act would take effect upon passage.

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